THE HON'BLE SMT JUSTICE T.MEENA KUMARI

&

THE HON'BLE SRI JUSTICE G. CHANDRAIAH

-

WRIT PETITION NO.22583 OF 2007

Dated:02.11.2007

Between:

1. The Conservator of Forests, Nizamabad circle, Nizamabad & others.

..Petitioners

And

Rafiq Ahmed Khan

.. Respondent.

-

-

THE HON'BLE SMT JUSTICE T.MEENA KUMARI
&
THE HON'BLE SRI JUSTICE G.CHANDRAIAH.

WRIT PETITION NO.22583 OF 2007

ORDER: (Per Hon'ble Smt. Justice T. Meena Kumari)

This writ petition is filed by the petitioners seeking to set aside the order of the tribunal passed in O.A.2137 of 2005 on 7.2.2007.

The respondent is the applicant. He filed the O.A. seeking to declare the initiation of the departmental proceedings against him by the 1st respondent by issuing article of charges and also not finalizing the departmental proceedings by the respondents even after lapse of 7 years though he retired from service on 31.12.2001 as arbitrary and illegal and violative of Rule 20 of A.P.C.C.A Rules and to declare that the departmental proceedings initiated against him by respondents-1 and 2, are without having any power and jurisdiction and also declare that the memo No:9476/For.IV/1999-16, dated 12.1.2005 of the Government, is also time barred by limitation in view of Rule 9 of A.P. Revised Pension Rules and consequently, direct the respondents to pay the entire retiral benefits and pension to him with interest at 12% p.a.

The tribunal having observed that the imputations made against the applicant in the annexures, disclose the pre determined mind on the part of the disciplinary authority to hold the applicant guilty of charges and in fact, a fair reading of the charges and the statement of imputations of misconduct suggest that the disciplinary authority had already concluded and pre determined the matter in dispute and without expressing any opinion on the merits of the case giving liberty

to the respondents to proceed against the applicant by treating the matter as remanded to the Government to proceed in accordance with rules and the observations made thereunder, allowed the O.A. Having aggrieved by the same, the present writ petition is preferred by the respondents-petitioners.

Heard and perused the material available on record.

Before going in to the merits of the case, it is pertinent to note that what all that has been arrived at by the tribunal, is that the impugned charges have not properly been framed in accordance with the rules and law on the ground that they disclose the pre determined mind on the part of the disciplinary authority to hold the applicant guilty of the charges. Apart from that, though the impugned charge memo and the consequential proceedings are found to be set aside, without expressing any opinion on the merits of the case, the tribunal has given liberty to the respondents to proceed against the applicant by treating the matter as remanded to the Government to proceed in accordance with the rules as well as the observations made therein in the order impugned.

In view of the liberty being given to the respondents by treating the matter as remanded to the Government to proceed in accordance with the rules and the observations made therein, We see no illegality or irregularity in the order impugned. Hence, We see no merits in the writ petition and the same is liable to be dismissed.

Accordingly, this writ petition is dismissed. No costs.

_____

Justice T. Meena Kumari

_____

Justice G.Chandraiah

Date: 2.11.2007

Gurc/nn

THE HON'BLE SMT. JUSTICE T.MEENA KUMARI
&
THE HON'BLE SRI JUSTICE G.CHANDRAIAH

-

-

-

-

-

-

-

-

-

-

-

-

-

WRIT PETITION NO.22583 OF 2007

(Order delivered by the Hon'ble Smt. Justice T. Meena Kumari)

-

-

-

-

Dated: 2.11.2007